

Remarks

Claim Rejections under 35 U.S.C. §103

Claims 1-5 and 11-17 were rejected under 35 U.S.C. §103 as being unpatentable over Chappell (US Pat. 6,425,132) in view of Kekic et al. (US Pat. 6,272,537) and in further view of Anderson et al. (US Pat. 5,850,388) and Cideon et al. (US Pat. 6,269,330.)

Claims 2, 4, 12, 14, 16 and 17 have been cancelled, with their subject matter, and further limitations, moved into claims 1 and 11, respectively, to more clearly distinguish the presently claimed invention from the modified system suggested in the instant Action. Support for these amendments can be found beginning at the bottom of page 48, and more particularly from line 29 of page 49 through line 4 of page 50. The limitations added to claims 1 and 11, in substantial part, correspond to the "smart scanning" logic of Applicants' system and the process said logic effectuates based upon specific metrics. The Examiner takes official note that frequent testing of nodes can aid in detecting the sequence of events prior to flagging critical and advisory events. Applicants respectfully submit that the cited art is devoid of any teaching or suggested of increasing testing frequency of nodes that have been identified as inadequately performing nodes, in a prioritized order based upon specific test analyses as recited:

"...logic to conduct more frequent testing of selected nodes associated with a prior occurrence of advisory events or critical events, the more frequent testing in a prioritized node order based upon the current and historical number of alarm-triggering test measurements associated with the selected nodes, and upon the percentage of test measurements outside of an acceptable ranged for the selected nodes."

Thus, Applicants respectfully submit that independent claims 1 and 11, as amended, are patentable over the cited art. Dependent claims 3, 5, 13 and 15 are similarly patentable over the cited art. If an independent claim is nonobvious, claims that depend from the independent claim are also nonobvious. *In re Fine*, 837 F.2d 1071, 1071; 5 USPQ2d 1596 (Fed. Cir. 1988). Reconsideration and withdrawal of this ground for rejection is respectfully requested.

Applicants additionally incorporate by reference the Remarks of the previous responses to Office Actions dated 07 September 2004, 27 April 2005, and 11 July 2005 with regard to the Chappell, Kekic and Anderson references. Claims 1 and 11 recite automatic,

periodic testing based on previously defined testing routines created based upon user input data, which is quite different from the technician-initiated spectrum analyzer sweep-testing disclosed by Chappell, or the general "polling" of Kekic and Anderson. Chappell's testing of a CATV system is not automated in a sense that the testing is the direct result of a field technician request for ingress testing. The presently claimed invention assists in automatically generating percent advisory and critical alarm indicators during the execution of channel test plans automatically generated and run based on user inputs. The specification explains that the controller is configured to enable creation of and display of the channel plan and test plan based upon user inputs. The specification states that "channel plan 56 encompasses all the expected values for all the services operating on a given node and all the information necessary to configure analyzer tests automatically ." The advantageousness of the system is described with respect to the challenge presented in configuring correctly the ingress measurements of the spectrum analyzer 12, "...control process software 26 takes care of the details regarding configuring each measurement. By configuring the various measurement parameters for the analyzer 12 from the channel plan 56, the control process software 26 ensures that the measurements are taken accurately and consistently."

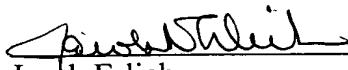
In light of the foregoing, Applicants respectfully submit that the combined disclosures of Chappell, Kekic, Anderson and Cideon fails to teach or suggest the invention as recited in amended, independent claims 1 and 11, and therefore those claims are patentable over the cited art.

Favorable consideration and allowance are earnestly solicited. Should there be any questions after reviewing this paper, the examiner is invited to contact the undersigned at 617-854-4000. Applicants hereby authorize the associated fees for the Request for Continued Examination and the petition for two month extension, and any other fees deemed necessary for consideration of this amendment be charged to Deposit Account No. 50-1078.

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